

**BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A**

IN RE: THOMAS LEWIS TRAVIS, Respondent
 Arkansas Bar ID#95029
 CPC Docket No. 2009-009

FILED

JAN 28 2010

FINDINGS AND ORDER

**LESLIE W. STEEN
CLERK**

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Martha and Jose Islas in Affidavits dated December 12, 2008. The information related to contact with Thomas Lewis Travis of Little Rock, in 2007 and 2008.

During January 2009, Respondent was served with a formal complaint, supported by affidavits from Martha Islas, Jose Islas, and Barry Frager, an attorney practicing in Memphis, Tennessee. Mr. Travis filed a timely Response and the matter proceeded to ballot vote before Panel B of the Committee pursuant to the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law. Following receipt of the decision of Panel B, Mr. Travis requested a public *de novo* hearing before Panel A of the Committee. The *de novo* hearing was conducted before Panel A on Friday, January 15, 2010. The Office of Professional Conduct was represented by Nancie Givens and Mr. Travis represented himself. Mr. Travis was the only live witness at the hearing.

The information before the Committee and the testimony given by Mr. Travis reflected that Mr. Travis represented Mr. Islas' employer in various immigration matters in 2001 and 2002. During that time period, one of the matters handled was obtaining an employment certification for Jose Islas. By Mr. Travis' own previous testimony, in employment matters, he had dual

representation in the immigration proceeding, representing both the employer and the employee. Specifically, he was representing Mr. Islas' former employer and Mr. Islas. Mr. Travis had duties owed to each in accordance with the Rules of Professional Conduct.

In 2007 when Mr. Islas sought to register permanent residence or adjust status, he was advised by the USCIS that he needed to provide the original ETA-750 document in order to establish his qualifying date. Mr. Travis had that document, as he prepared it for Mr. Islas and his employer. It was a time-sensitive matter for Mr. Islas to obtain that document which Mr. Travis maintained in the file on Mr. Islas' initial employment certification. Mr. Islas' new counsel sought to obtain that specific document from Mr. Travis, but Travis failed to deliver it to Mr. Frager or to Mr. Islas during the time period when it was needed. As such, Mr. Travis was not protecting his former client's interests. In fact, the initial decision of the USCIS in Mr. Islas' adjustment of status request was to deny it because that specific documentation was not provided.

Mr. Islas was given thirty (30) days from the denial to seek to have the matter reviewed again if he obtained the documentation as requested. Mr. Travis ultimately agreed to provide the documentation which he acknowledged he still had in his file maintained at the time of representation. However, instead of surrendering the document, Mr. Travis charged Mr. Islas \$1000 to provide the document. He took advantage of the situation in order to obtain \$1000 from the Islas family. Mr. Travis firmly denied that he held the document hostage demanding payment before delivering the document to Mr. Islas.

According to the response filed by Mr. Travis to the formal disciplinary complaint and his own testimony at the hearing, he spent one day, and two employees spent what totaled one day, searching for the specific document. He offered that because of the emergency of the request, he was

compelled to immediately reallocate and divert all of his law office resources to locate the original document. Mr. Travis asserted that the fee that he charged was based upon the costs expended, his staff's wages that he paid, and his hourly and daily rate, which he avers is within the range of fees customarily charged in this locality.

Mr. Travis denied violating Rule 1.16(d) because he asserted he provided copies of everything requested, as requested. Further, according to Mr. Travis, the original ETA-750 was never requested or required by the U.S. Citizenship and Immigration Services. Mr. Travis testified that the whole problem arose because of the demand for the original document as opposed to a copy of the document. Mr. Travis admitted that he did not provide a copy of the ETA-750 at any time nor did he ever contact Mr. Frager to inquire as to the actual need for the original document.

Upon consideration of the formal complaint and attached exhibit materials, the response to it, other matters before it, the live testimony of Mr. Travis, and the Arkansas Rules of Professional Conduct, Panel A of the Arkansas Supreme Court Committee on Professional Conduct unanimously finds:

1. That Mr. Travis' conduct violated Rule 1.5(a) when he charged an unreasonable fee and expense cost of \$1,000 for Mr. Islas to obtain a crucial document from a file which was maintained in Travis's office as a result of representation of Mr. Islas and his former employer in an immigration matter. There was no legitimate basis for charging such a fee. Rule 1.5(a) requires that a lawyer's fee be reasonable and that a lawyer not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of the fee include the following: (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service

properly; (2) the likelihood, if apparent to the client, that the acceptance of the particular employment, will preclude other employment by the lawyer; (3) the fee customarily charged in the locality for similar legal services; (4) the amount involved and the results obtained; (5) the time limitations imposed by the client or the circumstances; (6) the nature and length of the professional relationship with the client; (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and (8) whether the fee is fixed or contingent.

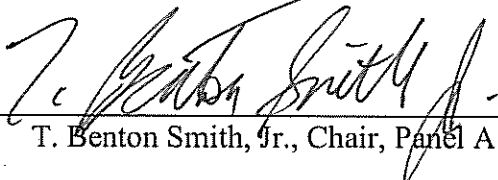
2. That Mr. Travis' conduct violated Rule 1.16(d) when he failed to surrender papers to which Mr. Islas was entitled when requested, even though his representation of Mr. Islas had ended and therefore was terminated, and, when instead of surrendering the document to which Mr. Islas was entitled in order to protect his interests, Mr. Travis charged Mr. Islas \$1000 to deliver the document to him. Rule 1.16(d) requires, in pertinent part, that upon termination of representation, a lawyer take steps to the extent reasonably practicable to protect a client's interests, such as surrendering papers and property to which the client is entitled.

WHEREFORE, it is the unanimous decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that **THOMAS LEWIS TRAVIS**, Arkansas Bar ID#95029, be, and hereby is, **REPRIMANDED** for his conduct in this matter. Mr. Travis' prior disciplinary history was specifically considered by the Panel when determining the appropriate sanction in this disciplinary matter. Pursuant to Section 18.A of the Procedures, Mr. Travis is assessed the costs of this proceeding in the amount of ONE HUNDRED FIFTY DOLLARS (\$150). Pursuant to Section 18.C of the Procedures, Mr. Travis is ordered to make restitution to the benefit of Mr. Islas in the amount of ONE THOUSAND DOLLARS (\$1000). The restitution and costs assessed herein, totaling **ONE THOUSAND ONE HUNDRED FIFTY**

DOLLARS (\$1,150) shall be payable by cashier's check or money order payable to the "Clerk, Arkansas Supreme Court" delivered to the Office of Professional Conduct within thirty (30) days of the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court.

ARKANSAS SUPREME COURT COMMITTEE ON
PROFESSIONAL CONDUCT - PANEL A

By: _____


T. Benton Smith, Jr., Chair, Panel A

Date: _____

